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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,066	06/09/2005	Elissa A. Keogh	2060.0150006/EKS/PAC	1351

50710 7590 10/04/2006

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WASHINGTON, DC 20005

EXAMINER
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AEDER, SEAN E

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/538,066

Applicant(s)

KEOGH ET AL.

Examiner

Sean E. Aeder, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 32-51 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 32-47, drawn to an isolated polypeptide, wherein said peptide comprises an epitope or analog derived from a tumor associated antigen.

**(Note: upon election of group I, Applicant must further identify from which tumor associated antigen (CEA, p53, HER2/neu, MAGE 2, or MAGE 3) each peptide and/or epitope derived from a tumor associated antigen is derived. Different combinations of peptides or epitopes derived from different tumor associated antigens represent separate invention and are not different species.)**

Group II, claim(s) 48-49, drawn to an isolated polynucleotide encoding the polypeptide of group I.

**(Note: upon election of group II, Applicant must further identify from which tumor associated antigen (CEA, p53, HER2/neu, MAGE 2, or MAGE 3) each peptide and/or epitope derived from a tumor associated antigen is derived. Different combinations of peptides or epitopes derived from different tumor associated antigens represent separate invention and are not different species.)**

Group III, claim(s) 50, drawn to a method of treating or preventing cancer comprising administering a polypeptide of group I.

**(Note: upon election of group III, Applicant must further identify from which tumor associated antigen (CEA, p53, HER2/neu, MAGE 2, or MAGE 3) each peptide and/or epitope derived from a tumor associated antigen is derived. Different combinations of peptides or epitopes derived from different tumor associated antigens represent separate invention and are not different species.)**

Group IV, claim(s) 51, drawn to a method of treating or preventing cancer comprising administering a polynucleotide of group II.

**(Note: upon election of group IV, Applicant must further identify from which tumor associated antigen (CEA, p53, HER2/neu, MAGE 2, or MAGE 3) each peptide and/or epitope derived from a tumor associated antigen is derived. Different combinations of peptides or epitopes derived from different tumor associated antigens represent separate invention and are not different species.)**

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The inventions listed as groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups I-IV appears to be that they all relate to the special technical feature of an isolated polypeptide, wherein said peptide comprises an epitope or analog derived from a tumor associated antigen.

However, Castilleja et al (The Journal of Immunology, 10/1/02, 169(7): 3545-3554) teaches an isolated polypeptide, wherein said peptide comprises an epitope or analog derived from a tumor associated antigen (see Table 1, in particular).

Therefore, the technical feature linking the inventions of groups I-IV does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Accordingly, groups I-IV are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Aeder, Ph.D. whose telephone number is 571-272-8787. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEA

  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER